IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 8415 of 2007(B)

PETITIONER:

SHARAFUDEEN M.,
H.S.S.T. ARABIC, AKMHS SCHOOL, MYLAPORE,
UMAYALLUR, KOLLAM.

BY ADV. SMT.P.V.ASHA

RESPONDENTS:

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1. DIRECTOR OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM.

2. PRINCIPAL,
AKMHS SCHOOL, MYLAPORE, UMAYALLUR, KOLLAM.

3. MANAGER,
AKMHS SCHOOL, MYLAPORE, UMAYALLUR, KOLLAM.

4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.T.T.MUHAMOOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSIOIN ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 8415 of 2007-B

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Dated this the 5th day of June, 2007.

J U D G M E N T

Petitioner was initially appointed as HSA (Arabic) in the school under the management of respondent No.3. Later, he was promoted as Higher Secondary School Teacher (part time) in the year 2000. Still later, he was given the benefit of full time HSST as revealed from Ext.P4 order. According to the petitioner, his initial appointment and subsequent orders of promotion had been approved and he had been drawing salary attached to the respective posts for the last more than 6 years.

2. However by order dated January 27, 2007 a copy of which is on record as Ext.P8, respondent No.1, the Director of Higher Secondary Education, held that petitioner was liable to be reverted as HSST (part time). The above view was taken purportedly noticing the fact that the petitioner had been initially appointed in a leave vacancy. It was further noticed by the Director that the Manager had not placed the correct facts at the time when the proposal for a by-transfer promotion was made.

3. Anyhow, I do not propose to deal with the above aspects of the case in view of the limited prayer made by learned counsel for the petitioner at the Bar. Learned counsel submits that Ext.P8 order is totally vitiated for the sole reason that it was passed without affording the petitioner an opportunity to be heard. There is considerable force in the above contention. But I hasten to add that I have not considered either the merit of the contentions raised by the petitioner or the reasoning of the Director as discernible from

Ext.P8. In my view interests of justice will be met if the petitioner is afforded an opportunity to be heard while reconsidering the entire issue. Therefore Ext.P8 is quashed. Respondent No.1 shall reconsider the matter and pass appropriate fresh orders as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment. Needless to mention that the petitioner and the Manager of the school shall be afforded sufficient opportunity to be heard before any decision is taken in the matter.

Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before respondent No.1 for compliance.

A.K. Basheer
Judge.

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